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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,211	06/24/2003	Robin Smith	1320.01.1	2240

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT PAPER NUMBER

3676

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/602,211

Applicant(s)

SMITH, ROBIN

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 9-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 2/28/05. These drawings are approved.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,837,557 to Striebel in view of U.S. Pat. No. 5,746,416 to Cote.

Striebel '557 teaches Applicant's claim limitations including : "elongated hollow tube" and "piston means" - 101, 102, an "end cap" - at 116, "having a threaded rod extended on an internal side" - 118, a "locking mechanism" - as broadly described.

While the he reference's inner and outer tubes are disclosed to have an arrangement of structure including a plurality of apertures and a locking mechanism to allow the device to be fitted to closure openings of various widths, the base reference to Stiebel '557 does not have a plurality of apertures in the inner ("piston") and outer tube as claimed.

However, one of ordinary skill in the art would have found it an obvious design choice at

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the time of the invention to form both of 101 and 102 with an array of apertures and locking mechanism as taught by Cote '416 in order to provide maximum amount of length adjustability as is inherent to such arrangement. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function of the device and the structure of the proposed modification is well known in the art of extendable security devices.

As regards claim 6, the contacts of the Striebel '557 reference inherently function as a "orientation sensor" wherein an alarm is activated by the contacts should the orientation of the device with respect to the window be changed.

As regards claim 8, substrate for contacts reads on broad limitation of "mounting bed".

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,837,557 to Striebel in view of U.S. Pat. No. 5,746,416 to Cote in view of U.S. Pat. No. 4,888,578 to Conemac.

Striebel '557, as modified, teaches the claimed invention except for "resilient feet". Conemac '578 teaches that it is well known in the art to provide an extendable security device with resilient feet. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the device of Striebel '557, as modified, with resilient feet as taught by Conemac '578 in order to avoid scratching surfaces as stated in the reference and otherwise well known to those of ordinary skill in the art. One of ordinary skill in the art would have more than a reasonable expectation of

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success since the proposed modification would not otherwise affect function of the device.

### ***Allowable Subject Matter***

5. Claims 9-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims rejected above have been considered but are moot in view of the new ground(s) of rejection. Since the amendment did not clearly necessitate the new grounds of rejection, this Office Action is not made Final.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky  
Primary Examiner  
Art Unit 3676